

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

GUIDE CORPORATION,  
and CROWN EG, INCORPORATED  
(d/b/a Crown Environmental Group),

Defendants.

CIVIL ACTION NO.

**COMPLAINT**

Plaintiff, the United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the United States Environmental Protection Agency (“EPA”), alleges as follows:

**NATURE OF THE ACTION**

1. This is a civil action brought against Guide Corporation (“Guide”) and Crown EG, Incorporated (d/b/a Crown Environmental Group) (“Crown”) (collectively, the “Defendants”) for violations of federal law associated with a massive fish kill in the White River caused by the Defendants. Over a period of several weeks beginning in December 1999, toxic wastewater discharged from a facility operated by the Defendants killed more than 100 tons of fish along more than 50 miles of the White River downstream from the City of Anderson, Indiana. The Defendants caused the discharge of that toxic wastewater from a wastewater treatment plant (“WWTP”) designed to collect and pre-treat wastewater from metal plating operations at a major automotive lighting parts manufacturing facility located at 2915 Pendleton Avenue in Anderson,

Indiana (the “Facility”), through the City of Anderson’s publicly owned treatment works (the “Anderson POTW”), and into the White River. This action seeks to obtain civil penalties and injunctive relief for the Defendants’ violations of the Clean Water Act, 33 U.S.C. § 1251 et seq. (the “CWA”), and of the applicable laws and regulations implementing the CWA.

### **JURISDICTION**

2. This Court has jurisdiction over the subject matter of this action under Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

3. This Court has personal jurisdiction over the Defendants, each of which is a corporation doing business in the State of Indiana, pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

4. Venue is proper in this District pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391(b) and (c) because the Defendants are found in and transact business in the Southern District of Indiana and because the acts or omissions which constitute the basis of this Complaint occurred within this district.

### **THE DEFENDANTS**

5. Guide is a Delaware corporation with its principal place of business in Anderson, Indiana.

6. Crown is an Ohio corporation with its principal place of business in Dayton, Ohio.

7. Each of the Defendants is a “person” as defined at Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

### **FACTUAL BACKGROUND**

8. Before November 1998, General Motors Corporation (“GM”) owned and operated the Facility.

9. In November 1998, pursuant to a set of agreements with GM (the “GM-Guide Agreements”), Guide and its corporate affiliates acquired ownership of the

automotive lighting parts business conducted at the Facility, and leased the Facility itself (including the Facility WWTP) from GM.

10. Pursuant to a Wastewater Discharge Permit that the Anderson Board of Public Works issued to Guide on or about November 1, 1998, the Facility WWTP was permitted to discharge pretreated process wastewater generated by routine metal plating operations conducted at the Facility.

11. Crown assisted Guide in operating the Facility WWTP.

12. The GM-Guide Agreements required that metal plating operations at the Facility be discontinued “as soon as practicable, but in no event later than December 31, 1999.”

13. The GM-Guide Agreements required that Guide surrender the Facility WWTP to GM for decommissioning within 90 days after the discontinuation of metal plating operations at the Facility.

14. The GM-Guide Agreements required Guide to complete the following cleanup-related tasks before surrendering the Facility WWTP to GM: “(i) treat all contaminated wastewater from the Anderson Plating Operations, (ii) remove all free liquids and residual excess treatment chemicals from the wastewater treatment plant, (iii) dispose of any accumulated wastewater treatment plant sludge, to the extent that such sludge can be removed by normal means using existing equipment at the wastewater treatment plant, and (iv) secure all wastewater treatment equipment in accordance with a mutually agreed upon tag-out/lock-out/sign-off procedure. . . .”

15. In accordance with the GM-Guide Agreements, in the summer of 1999, the Defendants made plans to discontinue metal plating operations at the Facility, and to complete all cleanup-related prerequisites to the surrender of the Facility WWTP to GM for decommissioning.

16. Anticipating the discontinuation of metal plating operations later in the year, Guide substantially increased its metal plating production in the summer of 1999, in order to stockpile finished products.

17. In September 1999, Guide ceased metal plating operations at the Facility, thereby triggering the 90 day schedule for surrendering the Facility WWTP to GM for decommissioning under the GM-Guide Agreements.

18. Between September and December 1999, the Defendants implemented their plans for: (i) removing metal plating chemicals and sludges from the tanks and equipment used for metal plating operations, and (ii) pumping contaminated wastewaters generated in cleaning the metal plating tanks and equipment to the Facility WWTP for pretreatment and eventual discharge to the White River, through the Anderson POTW.

19. Between September 1999 and December 1999, the Defendants used the Facility WWTP to accept and pretreat non-routine contaminated wastewater generated in cleaning the metal plating tanks and equipment at the Facility.

20. The non-routine cleanup-related wastewater sent to the Facility WWTP between September 1999 and December 1999 differed from the routine process wastewater generated by the Facility's metal plating operations before September 1999. For example, the non-routine cleanup-related wastewater contained much higher metal contaminant concentrations than routine process wastewater generated by the Facility's metal plating operations.

21. The Defendants used modified methods for pretreating the non-routine cleanup-related wastewater sent to the Facility WWTP, such as adding greater amounts of pretreatment chemicals and re-treating the non-routine wastewater multiple times before its discharge to the Anderson POTW.

22. On multiple occasions in mid- to late-December 1999, the Defendants caused discharges of large quantities of non-routine cleanup-related wastewater which they had pretreated using modified methods. Those wastewater discharges from the Facility WWTP contained high levels of toxic pollutants, including but not limited to sodium dimethyldithiocarbamate and certain other compounds formed from that chemical, such as dimethylamine, carbon disulfide, and thiram and other thiurams.

23. The toxic pollutants contained in the Defendants' non-routine cleanup-related wastewater were discharged through the Anderson POTW to the White River, and killed more than 100 tons of fish in the White River, as well as certain other wildlife living in and using the River.

24. The toxic pollutants contained in the Defendants' non-routine cleanup-related wastewater interfered with the microbiological treatment systems used by the Anderson POTW. That interference caused the Anderson POTW to discharge excessive amounts of pollutants normally consumed or removed by the POTW's microbiological treatment systems, in violation of the POTW's own CWA discharge permit.

25. On information and belief, the Defendants failed to notify the Anderson POTW or the Indiana Department of Environmental Management ("IDEM") that they:

- (i) planned to increase metal plating production in the summer of 1999, and then discontinue production in September 1999, (ii) planned to make changes in Facility processes which would result in new, increased, or different levels of pollutants in the Facility's wastewater, (iii) planned to make changes in the pretreatment facilities or pretreatment methods which might change the quality or quantity of the Facility's wastewater, (iv) would have substantial changes in the volume or character of pollutants in their discharge, and (v) caused discharges to the Anderson POTW which could cause problems to the POTW.

26. On information and belief, the Anderson POTW first learned that the Facility's metal plating operations had been discontinued during an inspection of the Facility on or about December 15, 1999, after the Anderson POTW had already begun experiencing problems caused by the Facility's discharges of non-routine cleanup-related wastewater.

27. On information and belief, a substantial amount of non-routine cleanup-related wastewater currently remains in tanks and other containers at the Facility.

#### **GENERAL CLEAN WATER ACT ALLEGATIONS**

28. The Defendants have caused the “discharge of pollutants” from “point sources” into the White River, through the Anderson POTW, within the meaning of CWA Section 502(6), (12) (14), and (16), 33 U.S.C. § 1362(6), (12), (14), and (16). The White River is a “navigable water” within the meaning of CWA Section 502(7), 33 U.S.C. § 1362(6), and 40 C.F.R. § 122.2.

29. CWA Section 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters of the United States, except in compliance with the CWA. The discharge of pollutants may be authorized, inter alia, by: (i) the terms and conditions of a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to CWA Section 402, 33 U.S.C. § 1342, but only in compliance with the applicable requirements of CWA Section 301, 33 U.S.C. § 1311, and such other conditions as the Administrator determines are necessary to carry out the provisions of the CWA, or (ii) CWA Section 307, 33 U.S.C. § 1317, which permits indirect discharge by an Industrial User through an NPDES permitted POTW, but only when the Industrial User complies with Federal Pretreatment Standards and Requirements, codified at 40 C.F.R. chapter I, subchapter N, (including “local limits” imposed by the POTW that are deemed to be Federally-enforceable pretreatment Standards under 40 C.F.R. § 403.5(d)).

30. The State of Indiana is authorized by EPA, pursuant to CWA Section 402(b), 33 U.S.C. § 1342(b), to administer an NPDES permit program for discharges into navigable waters within its jurisdiction. See 39 Fed. Reg. 26061 (1974).

31. On or about October 1, 1988, IDEM issued the City of Anderson POTW an NPDES permit, designated Permit No. 0032476, under the authority conferred by CWA Section 402(b). The Anderson POTW Permit was amended on several occasions between 1988

and 1993. That Permit expired by its terms on July 30, 1993, but has been administratively extended and remains in full force and effect.

32. As required by CWA Section 307(b), 33 U.S.C. § 1317(b), EPA has promulgated “General Pretreatment Regulations for Existing and New Sources of Pollution” (the “Pretreatment Regulations”) set forth at 40 C.F.R. Part 403. The Pretreatment Regulations include national “Pretreatment Standards” set forth at 40 C.F.R. § 403.5, including “general prohibitions”(403.5(a)), and “specific prohibitions” (403.5(b)). Those national Pretreatment Standards prohibit introduction into a POTW of pollutants that could “pass through” a POTW without treatment or cause “interference” with a POTW’s operation.

33. The Pretreatment Regulations at 40 C.F.R. § 403.8 require affected POTWs to submit a POTW Pretreatment Program for approval by EPA. The Pretreatment Regulations, at 40 C.F.R. § 403.5(c), then require a POTW with an approved pretreatment program to develop and enforce specific “local limits” which implement the national Pretreatment Standards contained in 40 C.F.R. § 403.5(a) (general prohibition on pass through and interference) and 403.5(b) (specific prohibitions). The local limits so developed are deemed to be Pretreatment Standards in accordance with 40 C.F.R. § 403.5(d), for the purposes of CWA Section 307(d), 33 U.S.C. § 1317(d), and are Federally-enforceable against “Industrial Users” of the POTW.

34. The Pretreatment Regulations, at 40 C.F.R. § 403.3, define an “Industrial User” as “a source of Indirect Discharge,” and in turn define Indirect Discharge as “the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.” The Pretreatment Regulations define a “Significant Industrial

User” as encompassing, inter alia, “industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.”

35. The Federal Pretreatment Regulations, at 40 C.F.R. § 403.8(f)(1), require that POTWs take steps to ensure compliance with pretreatment requirements imposed under CWA Section 307(d), such as: (i) mandating compliance with applicable Pretreatment Standards and Requirements by Industrial Users (403.8(f)(1)(ii)); and (ii) controlling through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements (403.8(f)(1)(iii)).

36. The Pretreatment Regulations, at 40 C.F.R. § 403.12, also impose certain obligations directly upon Industrial Users, in order to ensure compliance with the pretreatment requirements imposed under CWA Section 307(d), such as: (i) requiring compliance with Categorical Pretreatment Standards applicable to certain industry sectors (40 C.F.R. chapter I, subchapter N), and (ii) subjecting Industrial Users to certain notification and reporting requirements under 40 C.F.R. § 403.12, including requiring advance notice of substantial changes in the volume or character of pollutants to be discharged to the POTW (403.12(j)), and requiring immediate notice of any discharge which could cause problems to the POTW (403.12(f)).

37. The Anderson POTW is subject to the Pretreatment Regulations and Pretreatment Standards. On or about February 5, 1986, EPA approved the City of Anderson’s Pretreatment Program.

38. The Facility is an “Industrial User” of the Anderson POTW, and is subject to the Pretreatment Regulations and Pretreatment Standards. Because the Facility WWTP handled wastewater from metal plating operations, the Facility is an Industrial User subject to the



Categorical Pretreatment Standard for Metal Finishing, codified at 40 C.F.R. Part 433, so the Facility is classified as a “Significant Industrial User” of the Anderson POTW.

39. In accordance with the requirements imposed by the Federal Pretreatment Regulations, the City of Anderson enacted Anderson Code of Ordinances, Title V, Chapter 51, which provides, inter alia, that (i) any Significant Industrial User must obtain a wastewater discharge permit based upon a permit application submitted to the City (Code Sections 51.58, 51.59), (ii) a Significant Industrial User must provide advance notice to the Anderson POTW of any planned increase or decrease in production (Code Section 51.62(H)), (iii) an Industrial User required to conduct wastewater pretreatment must report to the Anderson POTW and to IDEM any changes in the pretreatment facilities or pretreatment methods which may change the quality or quantity of the pretreatment wastewater (Code Section 51.57(C)), (iv) Industrial Users shall not introduce or cause to be introduced into the Anderson POTW any pollutant or wastewater which causes pass through or interference (Code Section 51.51), and (v) an Industrial User must report to the Anderson POTW any non-routine discharge or slug load which may cause potential problems for the POTW (Code Section 51.63(B)).

40. Chapter 51 of the Anderson Code also expressly prohibits, inter alia, (i) the discharge into any stream or sewers within the City of any chemical harmful to fish or other beneficial animal or plant life (Code Section 51.11); (ii) any discharge of wastewater to the Anderson POTW containing pollutants which will constitute a hazard to humans or animals (Code Section 51.51(A)(4)); (iii) any discharge of objectionable or toxic substances to the Anderson POTW constituting a hazard to humans or animals (Code Section 51.51(A)(11)).

41. On or about November 1, 1998, the Anderson POTW issued to Guide a Wastewater Discharge Permit applicable to the discharge of categorically regulated process

wastewater from the Facility WWTP (the “Facility Permit”). In conformance with requirements imposed by Chapter 51 of the Anderson Code, the Facility Permit required, inter alia, that the Facility: (i) comply with the Categorical Pretreatment Standard for Metal Finishing, 40 C.F.R. Part 433, for discharges to the Anderson POTW from the Facility WWTP, (ii) report to the Anderson POTW any flow changes or process changes which would result in new, increased or different levels of pollutants, and submit a revised Wastewater Discharge Permit application together with any such report, and (iii) report to the Anderson POTW any slug load or other noncompliance with the permit.

42. The above-cited requirements and prohibitions of the Anderson Code and the Facility Permit are local limits which are deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d) and CWA Section 307(d), 33 U.S.C. § 1317(d).

43. CWA Section 307(d), 33 U.S.C. § 1317(d), provides that “after the effective date of any effluent standard or prohibition or pretreatment standard promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of such effluent standard or prohibition or pretreatment standard.”

44. During the period of time relevant to this action, the Defendants “operated” the Facility, including the Facility’s WWTP, within the meaning of CWA Section 307(d), 33 U.S.C. § 1317(d).

45. CWA Section 309(b), 33 U.S.C. § 1319(b), authorizes EPA to commence a civil action for appropriate relief when any person violates, inter alia, (i) the general prohibition on unauthorized discharge of pollutants to navigable waters of the United States under CWA Section 301(a), 33 U.S.C. § 1311(a), or (ii) pretreatment requirements imposed by CWA Section 307(d), 33 U.S.C. § 1317(d), including Pretreatment Standards and associated regulatory

requirements (as well as pretreatment-related local limits imposed upon Industrial Users by a local ordinance or an Industrial User permit issued under 40 C.F.R. 403.8). Such appropriate relief includes a permanent or temporary injunction and a civil penalty of up to \$27,500 per day for each violation occurring after January 31, 1997.

## **CLAIMS FOR RELIEF**

### **FIRST CLAIM FOR RELIEF (Unauthorized Discharge of Pollutants)**

46. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

47. On multiple occasions in mid- to late-December 1999, the Defendants discharged a variety of pollutants from a point source to the White River, through the Anderson POTW, without authority to do so under the CWA. The pollutants that Defendants discharged without authority to do so included but were not limited to sodium dimethyldithiocarbamate and certain other compounds formed from that chemical, such as dimethylamine, carbon disulfide, and thiram and other thiurams.

48. Defendants' unauthorized discharge of pollutants to the White River, through the Anderson POTW, violated CWA Section 301(a), 33 U.S.C. § 1311(a).

49. Each day that the Defendants discharged each unauthorized pollutant constitutes a separate day of violation of CWA Section 301(a), 33 U.S.C. § 1311(a).

50. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

51. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**SECOND CLAIM FOR RELIEF**  
**(Illegal Pass Through of Pollutants Through POTW)**

52. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

53. On multiple occasions in mid- to late-December 1999, the Defendants discharged a variety of pollutants which passed through the Anderson POTW, within the meaning of 40 C.F.R. § 403.5(a), and exited the Anderson POTW into the White River. The pollutants Defendants discharged, and that passed through the Anderson POTW, included but were not limited to sodium dimethyldithiocarbamate and certain other compounds formed from that chemical, such as such as dimethylamine, carbon disulfide, and thiram and other thiurams.

54. The Defendants' discharge of pollutants which passed through the Anderson POTW was a cause of one or more violations of the Anderson POTW's NPDES permit.

55. Defendants' discharge of pollutants which passed through the Anderson POTW into the White River violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the general prohibitions of the national Pretreatment Standards, 40 C.F.R. § 403.5(a), and (iii) local limits deemed to be Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.51.

56. Each day that the Defendants discharged pollutants which passed through the Anderson POTW constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the general prohibitions of the national Pretreatment Standards, 40 C.F.R. § 403.5(a), and (iii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.51.

57. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

58. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**THIRD CLAIM FOR RELIEF**  
**(Discharge of Pollutants Causing Interference with POTW)**

59. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

60. On multiple occasions in mid- to late-December 1999, the Defendants introduced discharge into the Anderson POTW which caused interference with the Anderson POTW, including inhibiting and disrupting its treatment processes and operations. The Defendant's discharge into the Anderson POTW contained toxic pollutants, including but not limited to sodium dimethyldithiocarbamate and certain other compounds formed from that chemical, such as dimethylamine, carbon disulfide, and thiram and other thiurams.

61. The Defendants' interference with the Anderson POTW was a cause of a violation of one or more requirements of the Anderson POTW's NPDES permit.

62. Defendants' interference with the Anderson POTW violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the general prohibitions of the national Pretreatment Standards, 40 C.F.R. § 403.5(a), (iii) the specific prohibitions of the national Pretreatment Standards, 40 C.F.R. § 403.5(b), and (iv) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. Section 403.5(d), including Anderson Code of Ordinances Section 51.51.

63. Each day that the Defendants discharged pollutants causing interference with the Anderson POTW constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the general prohibitions of the national Pretreatment Standards, 40 C.F.R. § 403.5(a), (iii) the specific prohibitions of the national Pretreatment Standards, and (iv) local limits deemed to be federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.51.

64. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

65. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**FOURTH CLAIM FOR RELIEF**  
**(Violation of Prohibitions on Discharges Harmful to Fish and Other Animals)**

66. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

67. On multiple occasions in mid- to late-December 1999, the Defendants introduced discharge into the White River, through the Anderson POTW, which was harmful and hazardous to fish and other animals, and which killed fish and other animals in and near the White River. The discharge which Defendants introduced into the White River, through the Anderson POTW, contained chemicals, pollutants, and objectionable and toxic substances, including but not limited to sodium dimethyldithiocarbamate and certain other compounds formed from that compound, such as dimethylamine, carbon disulfide, and thiram and other thiurams.

68. Defendants' discharges of chemicals, pollutants, and objectionable and toxic substances which were harmful and hazardous and to fish and other animals violated:

(i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Sections 51.11 and 51.51.

69. Each day that the Defendants discharged chemicals, pollutants, and objectionable and toxic substances which were harmful and hazardous and to fish and other animals constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Sections 51.11 and 51.51.

70. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

71. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**FIFTH CLAIM FOR RELIEF**  
**(Violation of Requirements to Provide Notification of Changes in Production)**

72. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

73. On information and belief, the Defendants did not provide the Anderson POTW advance notice of the increase in the Facility's metal plating production in the summer of 1999, or advance notice of the Facility's discontinuation of metal plating production in September 1999.

74. By failing to provide such notices, Defendants violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits imposed by Anderson Code of Ordinances

Section 51.62, which are deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d).

75. Each day that the Defendants violated the aforementioned pretreatment-related notification requirement constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits imposed by Anderson Code of Ordinances Section 51.62, which are deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d).

76. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

77. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**SIXTH CLAIM FOR RELIEF**  
**(Violation of Requirements to Provide Notice of Process Changes,**  
**and to Seek a Revised Permit Addressing Such Changes)**

78. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

79. On information and belief, the Defendants did not notify the Anderson POTW that changes were being made in Facility processes after September 1999 which would result in new, increased, or different levels of pollutants discharged to the Anderson POTW. More specifically, on information and belief, the Defendants failed to notify the Anderson POTW that the Facility WWTP would no longer be used for pretreatment of routine process wastewater from metal plating operations after September 1999, but would instead be used for pretreatment of non-routine cleanup-related wastewater from the Facility.



80. On information and belief, the Defendants also failed to submit a completed Wastewater Discharge Permit Application seeking a revised Facility Permit which would address such process changes.

81. By failing to provide such notice and seek a revised Facility Permit, the Defendants violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Sections 51.58 and 51.59 and pertinent provisions of the Facility Permit.

82. Each day that the Defendants violated the aforementioned pretreatment-related notification and permit application requirement constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Sections 51.58 and 51.59 and pertinent provisions of the Facility Permit.

83. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

84. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**SEVENTH CLAIM FOR RELIEF**  
**(Violation of Requirements to Provide Notice of and Obtain Approval for Changes in Pretreatment Facilities or Methods)**

85. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

86. On information and belief, the Defendants did not notify the Anderson POTW or IDEM that changes were being made in the Facility WWTP's pretreatment facilities

and methods which might change the quality or quantity of the pretreatment wastewater. More specifically, on information and belief, the Defendants failed to notify the Anderson POTW or IDEM that changes were being made in the Facility WWTP's pretreatment facilities and methods in order to accept and pretreat non-routine cleanup-related wastewater after September 1999.

87. On information and belief, the Defendants also did not obtain approval from the Anderson POTW or IDEM for changes being made in the Facility WWTP's pretreatment facilities and methods which might change the quality or quantity of the Facility WWTP's pretreatment wastewater.

88. By failing to provide such notice and obtain such approvals, the Defendants violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.57.

89. Each day that the Defendants violated the aforementioned pretreatment-related notification requirement constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), and (ii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Sections 51.57.

90. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

91. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**EIGHTH CLAIM FOR RELIEF**  
**(Violation of Requirements to Provide Notice of Changes in the**  
**Volume or Character of Pollutants Discharged to the POTW)**

92. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

93. On information and belief, the Defendants did not notify the Anderson POTW of changes in the volume and character of pollutants contained in discharge from the Facility WWTP after September 1999, due to the changes in the wastewater received by the Facility WWTP and changes in the methods used for pretreatment of the wastewater.

94. By failing to provide such notice, the Defendants violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the Federal Pretreatment Regulations, 40 C.F.R. § 403.12(j), and (iii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.57 and pertinent provisions of the Facility Permit.

95. Each day that the Defendants violated the aforementioned pretreatment-related notification requirement constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the Federal Pretreatment Regulations, 40 C.F.R. § 403.12(j), and (iii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.57 and pertinent provisions of the Facility Permit.

96. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

97. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

**NINTH CLAIM FOR RELIEF**  
**(Violation of Requirements to Provide Notice of**  
**Discharges Which Could Cause Problems to the POTW)**

98. The allegations set forth in Paragraphs 1 through 45 are incorporated herein by reference.

99. On information and belief, the Defendants did not notify the Anderson POTW that discharges from the Facility's WWTP after September 1999, including non-routine discharges or slug loads, could cause problems to the POTW.

100. By failing to provide such notice, the Defendants violated: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the Federal Pretreatment regulations, 40 C.F.R. § 403.12(f), and (iii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.63 and pertinent provisions of the Facility Permit.

101. Each day that each of the Defendants violated the aforementioned pretreatment-related notification and reporting requirements constitutes a separate day of violation of: (i) CWA Section 307(d), 33 U.S.C. § 1317(d), (ii) the Federal Pretreatment regulations, 40 C.F.R. § 403.12(f), and (iii) local limits deemed to be Federally-enforceable Pretreatment Standards under 40 C.F.R. § 403.5(d), including Anderson Code of Ordinances Section 51.63 and pertinent provisions of the Facility Permit.

102. Pursuant to CWA Section 309(b) and (d), 33 U.S.C. § 1319(b) and (d), each of the Defendants is subject to civil penalties of up to \$27,500 per day for each violation.

103. Pursuant to CWA Section 309(b), 33 U.S.C. § 1319(b), the Defendants are subject to injunctive relief.

### **RELIEF REQUESTED**

**WHEREFORE**, Plaintiff, the United States of America, respectfully requests that this Court:

- A. Issue a permanent injunction restraining and preventing the Defendants from making any future discharges from the Facility WWTP, except in compliance with the following legal requirements: (i) CWA Sections 301(a) and 307(d), 33 U.S.C. § 1311(a) and 1317(d), (ii) the Federal Pretreatment Standards and Requirements codified at 40 C.F.R. chapter I, subchapter N, and (iii) all pretreatment-related, Federally-enforceable local limits imposed by the City of Anderson Code of Ordinances and the Facility Permit;
- B. Order the Defendants to comply with the following legal requirements in connection with any future discharges from the Facility WWTP: (i) CWA Sections 301(a) and 307(d), 33 U.S.C. § 1311(a) and 1317(d), (ii) the Federal Pretreatment Standards and Requirements codified at 40 C.F.R. chapter I, subchapter N, and (iii) all pretreatment-related, Federally-enforceable local limits imposed by the City of Anderson Code of Ordinances and the Facility Permit;
- C. Order the Defendants to undertake immediately and complete expeditiously all affirmative actions necessary to achieve compliance with the following legal requirements in connection with any future discharge from the Facility WWTP: (i) CWA Sections 301(a) and 307(d), 33 U.S.C. § 1311(a) and 1317(d), (ii) the Federal Pretreatment Standards and Requirements codified at 40 C.F.R. chapter I, subchapter N, and (iii) all pretreatment-related, Federally-enforceable local limits imposed by the City of Anderson Code of Ordinances and the Facility Permit;
- D. Order the Defendants to study and report to EPA on the adverse impacts to the environment caused by their CWA violations, and options for restoring the White River;

- E. Order the Defendants to remedy the damage to water quality, fish stocks, and other wildlife caused by their CWA violations by restoring the White River, including by restocking the White River with fish;
- F. Award civil penalties of up to \$27,500 per day against each Defendant for each violation of the CWA that occurred on or after January 31, 1997;

- G. Award Plaintiff its costs and disbursements for this action; and
- H. Award such other relief as the Court may deem just and proper.

Respectfully submitted,

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